

RE-ENROLLED ORIGINAL

AN ACT
D.C. ACT 16-339IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
MARCH 30, 2006Codification
District of
Columbia
Official Code

2001 Edition

2006 Summer
Supp.West Group
Publisher

To amend the District of Columbia Procurement Practices Act of 1985 to establish the use of full and open competition in procurement, to restrict direct voucher payments, to define a responsible bidder, to require the Chief Procurement Officer to submit annual procurement reports and justify all incumbent contracts that have not been timely bid prior to expiration, and to prohibit emergency procurement due to internal governmental circumstances.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Procurement Practices Timely Competition Assurance and Direct Voucher Prohibition Amendment Act of 2006".

Sec. 2. The District of Columbia Procurement Practices Act of 1985, effective February 21, 1986 (D.C. Law 6-85; D.C. Official Code § 2-301.01 *et seq.*), is amended as follows:

(a) Section 101(b) (D.C. Official Code § 2-301.01(b)) is amended by adding a new paragraph (2A) to read as follows:

Amend
§ 2-301.01

"(2A) To obtain full and open competition by providing that contractors are given adequate opportunities to bid and that government receives sufficient bids to ensure that it obtains the lowest possible price for goods and services that meet specifications and standards for quality."

(b) A new section 105f is added to read as follows:

"Sec. 105f. Direct voucher payments.

"(a) All District of Columbia agencies and instrumentalities and their employees shall comply with Financial Management and Control Order No. 05-002-Revised issued by the Chief Financial Officer ("CFO"). The CFO shall determine that sufficient funds exist to pay for expenditures of any items not included in the District's System of Accounting and Reporting before a voucher and payment for any such expenditure may be authorized.

"(b) The requirement under subsection (a) of this section shall apply to all kinds of payments, including payments based on contractual services, regulations, single source procurement, mutual written agreements, contributions, and payments mandated by the budget,

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law, or court orders.”

(c) Section 107 (D.C. Official Code § 2-301.07) is amended as follows:

Amend
§ 2-301.07

(1) Designate the existing paragraph (29A) as paragraph (29A-1).

(2) Add a new paragraph (29A) to read as follows:

“(29A) “Full and open competition” means that all responsible bidders are permitted to submit sealed bids or competitive proposals for the proposed contract.”

(3) Paragraph (40) is amended to read as follows:

“(40) “Responsible bidder” means a prospective contractor that:

“(a) Has adequate financial resources to perform the contract or the ability to obtain those resources;

“(b) Is able to comply with the required or proposed delivery or performance schedule, based upon the bidder’s existing commercial and government contract commitments;

“(c) Has a satisfactory performance record;

“(d) Has a satisfactory record of integrity and business ethics;

“(e) Has the necessary organization, experience, accounting, operational control, and technical skills, or the ability to obtain that organization, experience, control, and skill;

“(f) Has the necessary production, construction, technical equipment, and facilities, or the ability to obtain that equipment and facilities; and

“(g) Is otherwise qualified and is eligible to receive an award under applicable laws and regulations.”

(d) Section 302 (D.C. Official Code § 2-303.02) is amended by adding new subsections (b-1) and (b-2) to read as follows:

Amend
§ 2-303.02

“(b-1) Every source selection process used by the District government shall employ full and open competition, except where the contract is awarded pursuant to section 305. There shall be a rebuttable presumption that full and open competition did not exist where fewer than 2 offers are received. Where full and open competition is not established, the contract shall not be awarded. The agency shall re-solicit offers and include a time and place in the invitations for bids by which the new bids shall be submitted; provided, that the goods or services are still needed by the District.

“(b-2) The presumption that full and open competition did not exist where fewer than 2 offers are received may be rebutted under the following conditions:

“(1) If the CPO documents in writing that he or she complied with the public notice requirements set forth in section 303(c) and (c-1) for competitive sealed bids;

“(2) If the CPO documents in writing that he or she published notice of a competitive sealed proposal in a newspaper of general circulation and on the Internet site of the Office of Contracting and Procurement at least 14 days prior to the due date for proposals; or

“(3) The CPO or his or her designee documents in writing that he or she complied with the requirements for small purchase procurements set forth in section 321.”

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(e) Section 312(a)(1) (D.C. Official Code § 2-303.12(a)(1)) is amended to read as follows:

Amend
§ 2-303.12

“(a)(1)(A) Notwithstanding any other provision of this act, a contracting officer may make emergency procurements when there exists an imminent threat to the public health, welfare, property, or safety under emergency conditions as defined in rules adopted pursuant to this act. In no event, however, shall an emergency condition be declared where internal governmental circumstances are solely responsible for the failure of the government to pursue non-emergency source selection procedures.

“(B) Any violation of this paragraph shall be cause for termination of the contracting officer. If the violation was committed at the direction of a supervisor, the supervisor shall be terminated.

“(C) For purposes of this section, “internal government circumstances” means the failure of the District government to publish a notice of an invitation for bids at least 31 days prior to the expiration of an incumbent contract for identical or similar goods or services where it has been determined that these goods or services, even if modified in scope of specificity, represent a continual need of the District government.

“(D) Where there has been violation of this paragraph, the CPO may approve a contract for food, housing or medicine for a period not to exceed 30 days including Saturdays, Sundays, and legal holidays.”

(f) A new section 319a is added to read as follows:

“Sec. 319a. Report by Chief Procurement Officer.

“(a) The Chief Procurement Officer (“CPO”) shall be required to provide annual reports to the Council delineating all contracts in excess of \$1 million that are scheduled to expire within a year of the date that the report is transmitted to the Council. The report shall be submitted to the Council no later than 30 days after the commencement of the fiscal year.

“(b) The report shall include the following:

“(1) The scheduled expiration date of the contract;

“(2) The status of the solicitation process;

“(3) Information as to whether there are option years associated with the contract;

“(4) Information as to whether the District government intends to exercise those option years;

“(5) The name of the contracting officer technical representative;

“(6) The projected date to advertise for proposals;

“(7) The projected proposal review period;

“(8) The projected award date; and

“(9) A list of all contract awards that exceeded the \$1 million dollar threshold for Council review and approval.

“(c) If a contract under this section is scheduled to expire within 5 months of the date the report is transmitted to the Council, the CPO shall submit a timeline containing all proposed

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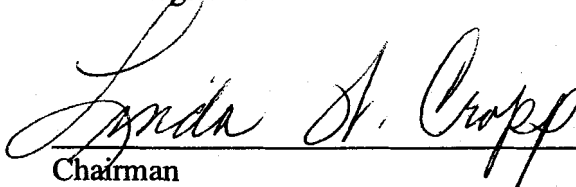
actions by the Office of Contracting and Procurement to ensure that an award is made prior to the expiration date. If an invitation for bids is not scheduled for publication 31 days prior to the expiration of the incumbent contract for identical or similar goods or services where it has been determined that those goods or services, even if modified in scope or specificity, represent a continual need of the District, the CPO shall include the rationale for the government's failure to comply with this 31-day requirement."

Sec. 3. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.2(c)(3)).

Sec. 4. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.



Chairman
Council of the District of Columbia

UNSIGNED

Mayor
District of Columbia
March 30, 2006

ENROLLED ORIGINAL

AN ACT

D.C. ACT 16-340

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

MARCH 30, 2006

Codification
District of
Columbia
Official Code

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2006 Summer
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Publisher

To amend the District of Columbia Theft and White Collar Crimes Act of 1982 to clarify the elements of and revise the penalties for first- and second-degree insurance fraud, to establish the offense of misdemeanor insurance fraud, to require that second-degree insurance fraud be deemed a crime of moral turpitude, to restrict the solicitation of clients, patients, or customers within 21 days of a motor vehicle accident for purposes of making insurance claims, and to provide that the provisions pertaining to restrictions on the solicitation of motor vehicle accident victims are nonseverable; and to amend An Act To provide for the more effective prevention, detection, and punishment of crime in the District of Columbia to prohibit the release of Metropolitan Police Department motor vehicle accident reports within 21 days of the accident to persons prohibited from soliciting clients, patients, or customers for purposes of making insurance claims, and to require the Metropolitan Police Department to maintain records of requests for motor vehicle accident reports made within 21 days of the accident.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "White Collar Insurance Fraud Amendment Act of 2006".

Sec. 2. The District of Columbia Theft and White Collar Crimes Act of 1982, effective December 1, 1982 (D.C. Law 4-164; D.C. Official Code § 22-3201 *et seq.*), is amended as follows:

(a) Section 125b (D.C. Official Code § 22-3225.02) is amended as follows:

Amend
§ 22-3225.02

(1) The lead-in language is amended to read as follows:

"A person commits the offense of insurance fraud in the first degree if that person knowingly engages in the following conduct with the intent to defraud or to fraudulently obtain property of another and thereby obtains property of another or causes another to lose property and the value of the property obtained or lost is \$250 or more."

(2) Paragraph (6) is amended to read as follows:

"(6) Employing or using any other person or acting as the agent of any other person to procure a client, patient, or customer for the purpose of falsely or fraudulently

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obtaining benefits under a contract of insurance or asserting a false or fraudulent claim against an insured or insurer."

(b) Section 125c (D.C. Official Code § 22-3225.03) is amended to read as follows:

Amend
§ 22-3225.03

"Sec. 125c. Insurance fraud in the second degree.

"A person commits the offense of insurance fraud in the second degree if that person knowingly engages in conduct specified in section 125b with the intent to defraud or to fraudulently obtain property of another and the value of the property which is sought to be obtained is \$250 or more."

(c) A new section 125c-1 is added to read as follows:

"Sec. 125c-1. Misdemeanor insurance fraud.

"A person commits the offense of misdemeanor insurance fraud if that person knowingly engages in conduct specified in section 125b with the intent to defraud or to fraudulently obtain property of another."

(d) Section 125d (D.C. Official Code § 22-3225.04) is amended to read as follows:

Amend
§ 22-3225.04

"Sec. 125d. Penalties.

"(a) Any person convicted of insurance fraud in the first degree shall be fined not more than \$50,000 or imprisoned for not more than 15 years, or both.

"(b)(1) Except as provided in paragraph (2) of this subsection, any person convicted of insurance fraud in the second degree shall be fined not more than \$10,000 or imprisoned for not more than 5 years, or both.

"(2) Any person convicted of insurance fraud in the second degree who has been convicted previously of insurance fraud pursuant to sections 125b or 125c, or a felony conviction based on similar grounds in any other jurisdiction, shall be fined not more than \$20,000 or imprisoned for not more than 10 years, or both.

"(c) Any person convicted of misdemeanor insurance fraud shall be fined not more than \$1,000 or imprisoned for not more than 180 days, or both.

"(d) A person convicted of a felony violation of this subtitle shall be disqualified from engaging in the business of insurance, subject to 18 U.S.C. § 1033(e)(2)."

(e) Section 125g(a) (D.C. Official Code & 22-3225.07(a)) is amended by striking the phrase "offense of insurance fraud in the first degree" and inserting the phrase "offenses of insurance fraud in the first degree or the second degree" in its place.

Amend
§ 22-3225.07

(f) A new section 125n is added to read as follows:

"Sec. 125n. Prohibition of solicitation.

"(a)(1) Except as provided in paragraph (2) of this subsection, it is unlawful for a practitioner, whether directly or through a paid intermediary, to solicit for financial gain a client, patient, or customer within 21 days of a motor vehicle accident with the intent to seek benefits under a contract of insurance or to assert a claim against an insured, a governmental entity, or an insurer on behalf of any person arising out of the accident.

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"(2) The prohibition in paragraph (1) of this subsection does not prohibit:

"(A) A practitioner from soliciting a client, patient, or customer by regular mail through the U.S. Postal Service or through the use of general advertising directed to the public;

"(B) A practitioner or his agents from contacting a potential client, patient, or customer, or a family member, friend, or coworker of the potential client, patient, or customer, where the practitioner has a preexisting business or personal relationship with the potential client, patient, or customer;

"(C) A practitioner or his agents from contacting a potential client, patient, or customer where the contact was initiated by the potential client, patient, or customer, or by a family member, friend, or coworker of the potential client, patient or customer; or

"(D) Providing advice and assistance to incarcerated persons in pursuing administrative remedies that may be a prerequisite to suit or in seeking appropriate medical care and treatment.

"(b) Except as provided in subsection (a)(2) of this section, it is unlawful for a person to solicit for financial gain a client, patient, or customer within 21 days of a motor vehicle accident for the purpose of directing the client, patient, or customer to a practitioner.

"(c) A person or practitioner found by clear and convincing evidence to have violated the provisions of this section shall be subject to a civil penalty of \$1,000. The Mayor may increase this penalty by rulemaking.

"(d)(1) If a person involved in an automobile accident, or his parent or guardian, executes, within 21 days of a motor vehicle accident, a release of liability, without the assistance or guidance of legal counsel, pursuant to the settlement of a claim for personal injury, that person or his parent or guardian may void the release; provided, that the insurance carrier or other settling party receives written notice of the intent to void the release within 14 days of the date that the release was executed, and the written notice is accompanied by any check or settlement proceeds related to the claim for personal injury that had been delivered to the claimant.

"(2) A release of liability executed within 21 days of the accident giving rise to the claim of personal injury by a person who is not represented by counsel shall contain a notice of the claimant's right to rescind conspicuously and separately stated on the release.

"(e) The provisions of this section are not severable."

Amend
§ 5-113.06

Sec. 3. Section 389 of An Act To provide for the more effective prevention, detection and punishment of crime in the District of Columbia, approved June 29, 1953 (67 Stat. 99; D.C. Official Code § 5-113.06), is amended as follows:

(a) Subsection (a) is amended by striking the phrase "The records" and inserting the phrase "Except as provided in subsection (c) of this section, the records" in its place.

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(b) A new subsection (c) is added to read as follows:

"(c)(1) Notwithstanding any other law, the Metropolitan Police Department shall not release or otherwise make available reports of motor vehicle accidents to any person prohibited from soliciting or procuring clients, patients, or customers pursuant to section 125n of the District of Columbia Theft and White Collar Crimes Act of 1982, passed on 2nd reading on March 7, 2006 (Enrolled version of Bill 16-208) ("Act"). This section does not prohibit an attorney retained by a person involved in an accident, or the agent of that attorney, from obtaining the report of that accident.

"(2) In addition to any other requirements, a person requesting to inspect or copy a motor vehicle accident report within 21 days of the accident shall:

"(A) Produce for inspection and copying a government-issued, photo identification; and

"(B) Provide a signed statement that:

"(i) Identifies the requested report;

"(ii) Includes the printed name of the requestor; and

"(iii) Attests that the requestor is not prohibited from obtaining the report under paragraph (1) of this subsection.

"(3) For each request to inspect or copy a motor vehicle accident report made within 21 days of the accident, the Metropolitan Police Department shall maintain for one year a copy of the requestor's photo identification and the statement provided pursuant to paragraph (2) of this subsection."

Sec. 4. Fiscal impact statement.

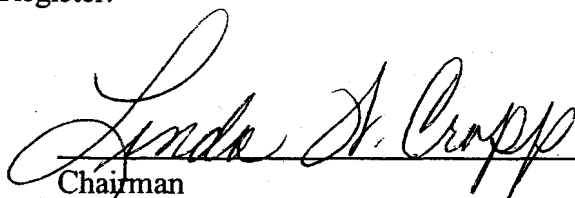
The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 5. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 60-day period of Congressional review as provided in section 602(c)(2) of the District of Columbia Home Rule Act, approved December

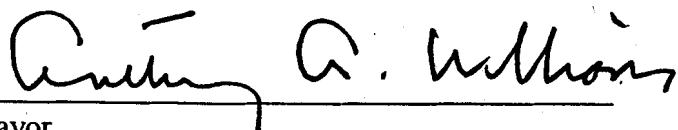
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24,1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(2)), and publication in the District of Columbia Register.



Chairman

Council of the District of Columbia



Mayor

District of Columbia

APPROVED

March 30, 2006

AN ACT
D.C. ACT 16-341

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

MARCH 30, 2006

*Codification
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2006 Summer
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To establish a Public School Capital Improvement Fund in order to provide a stable revenue source for the District of Columbia Public Schools capital budget to finance the modernization of public school facilities; to require the Board of Education and Superintendent to submit to the Council a comprehensive facilities management strategy; to amend Chapter 20 of Title 47 of the District of Columbia Official Code to fund the Public School Capital Improvement Fund to provide for cost-of-construction adjustments funding for the Public School Capital Improvement Fund attributable to the District of Columbia Public School's capital budgets from fiscal years 2008 to 2011; to provide for the use of unallocated revenue to fund the fiscal effect of this act; to provide contingent authority to increase the deed recordation and transfer tax rates for commercial property to satisfy any fiscal deficiency; to establish a Public School Capital Improvement Advisory Committee; to require the Board of Education to adopt a multiyear Capital Improvement Plan and Budget to implement the Facilities Master Plan; to require the District of Columbia Auditor to report to the public on expenditures of and the annual progress with respect to the multiyear Facilities Master Plan; to amend the School Budgeting and Accountability Act of 1998 to require that the Facilities Master Plan address additional criteria, the Board of Education review and update the plan every 3 years, and the Superintendent and Board of Education consult with the Mayor, the Council, the Public Charter School Board, representatives of public charter schools, and the Public School Modernization Advisory Committee in developing the Facilities Master Plan; to amend the District of Columbia School Reform Act of 1995 to require the Superintendent and Board of Education to consult with the Mayor, the Council, the Public Charter School Board, representatives of public charter schools, and the Public School Modernization Advisory Committee in developing the Facilities Master Plan, and to repeal an outdated provision; and to amend Chapter 3 of Title 47 of the District of Columbia Official Code to require maintaining existing levels of District of Columbia Public School capital funding and to provide for cost-of-construction adjustments beginning fiscal year 2012.

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BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "School Modernization Financing Act of 2006".

TITLE I. PUBLIC SCHOOL CAPITAL IMPROVEMENT FUND.

Part A.

Sec. 101. Establishment of the Public School Capital Improvement Fund.

(a) There is established a nonlapsing special revenue fund to be known as the Public School Capital Improvement Fund ("Fund"), which shall be separate from the General Fund of the District of Columbia and which shall be used to provide a revenue source for the District of Columbia Public Schools capital budget.

(b) The Chief Financial Officer shall deposit into the Fund:

(1) All revenue specifically identified by any provision of District of Columbia law to be paid into the Fund; and

(2) Any federal grant or other federal funds that may be used for the purposes of the Fund.

(c) Funds deposited in the Fund shall not revert to the General Fund of the District of Columbia at the end of any fiscal year or at any other time, but shall be continually available for the uses and purposes set forth in this act, subject to authorization by Congress in an appropriations act.

(d) Beginning on October 1, 2006, the Chief Financial Officer shall transfer any funds deposited in the Fund that are requested by the Board of Education to the Board of Education through District of Columbia Public Schools capital budget, subject to the requirements of section 103 .

(e) The appropriation of local funds to, or the existence of retained funds in, the Public School Capital Improvement Fund shall not replace local funding that otherwise would be directed to the capital budget for the District of Columbia Public Schools.

Sec. 102. Cost-of-construction adjustment for the Fund attributable to District of Columbia Public School capital budgets.

(a) In fiscal years 2008 through 2011, the Chief Financial Officer shall deposit annually an amount into the Fund equal to the cost-of-construction adjustment.

(b) For the purposes of subsection (a) of this section, the term "cost-of-construction adjustment" for any fiscal year means an amount equal to \$98.299 million, multiplied by the percentage by which the Construction Cost Index ("CCI") for the preceding fiscal year exceeds the CCI for the fiscal year beginning October 1, 2005. For the purposes of this paragraph, the CCI for any fiscal year is the average of the Cost Construction Index for Baltimore published by RS Means, or any successor index, as of the close of the 12-month period ending on September 30 of such fiscal year.

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Sec. 103. Use of Fund.

(a)(1) Funds transferred to the Board of Education from the Fund are in addition to the annual capital budget appropriation for the District of Columbia Public Schools, as required in section 301, and shall be used in conjunction with the annual capital appropriation to finance, pursuant to section 203, the modernization of public school facilities.

(2) For the purposes of this act, the term "modernization" means a construction project designed to bring an existing school building and its grounds up to current standards for condition, design, and utilization, as defined by the District of Columbia Public Schools educational requirements and current building codes. Modernization can include partial or complete demolition, new construction, and rehabilitation of existing building fabric, in any combination.

(b) No funds transferred to the Board of Education pursuant to this title shall be spent except in accordance with the Facilities Master Plan and the Capital Improvement Plan and Budget.

(c) No funds shall be transferred by the Chief Financial Officer to the Board of Education through the District of Columbia Public Schools capital budget unless the facilities management organizational strategy required by section 104 has been submitted to and approved by the Council.

(d) The Chief Financial Officer shall transfer funds pursuant to this section only upon receipt of written certification from the Board of Education that the requirements of section 203 have been met.

Sec. 104. Facilities management organizational strategy.

(a) No later than May 1, 2006, the Superintendent and Board of Education shall submit to the Council for approval by resolution a comprehensive facilities management organizational strategy that shall include:

(1) The specific staffing and organizational structure charged with overseeing and implementing the school capital improvement program, which may include creating in-house capacity or using private project management or a combination thereof, and the rationale for the structure chosen;

(2) A detailed timeline with specific milestones needed for the development and implementation of the staffing and organizational structure;

(3) Implementation procedures detailing an annual schedule, project eligibility criteria, and definitions of all eligible project types;

(4) Measures of program accountability and project management that will be implemented by the Superintendent to ensure that the capital expenditures remain aligned with the approved Facilities Master Plan and the capital budget of the District of Columbia Public Schools;

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(5) A summary report of the school facility condition assessment that was used to inform the development of the revised Facilities Master Plan;

(6) A detailed plan establishing how and when the school system will address issues of excess capacity and facilities space, including consolidation, closure, and co-locations; and

(7) Recommendations for policy and legislative changes necessary for the efficient expenditure of the capital budget.

(b) If the Council does not approve or disapprove of the facilities management organizational strategy submitted pursuant to subsection (a) of this section by resolution within 30 days of its submission, the organizational strategy shall be deemed approved.

(c) If the Council disapproves the facilities management organizational strategy submitted pursuant to subsection (a) of this section, the Superintendent and Board of Education may resubmit, within 30 days of the disapproval, a revised version to the Council. If the Council does not approve or disapprove of the facilities management organizational strategy submitted pursuant to this subsection by resolution within 30 days of its submission, the organizational strategy shall be deemed approved.

Part B.

Sec. 121. Chapter 20 of Title 47 of the District of Columbia Official Code is amended as follows:

(a) The table of contents is amended by adding the phrase "47-2033. Dedication of sales tax revenue for the Public School Capital Improvement Fund." at the end.

(b) A new section 47-2033 is added to read as follows:

"§ 47-2033. Dedication of sales tax revenue for the Public School Capital Improvement Fund.

"(a)(1) Beginning in fiscal year 2007, the Chief Financial Officer shall deposit the first \$100 million of nondedicated sales tax revenue collected annually, beginning April 1 of each fiscal year, under Chapter 20 of Title 47 of the District of Columbia Official Code into the Public School Capital Improvement Fund established under section 101 of the School Modernization Financing Act of 2006, passed on 2nd reading on March 7, 1006 (Enrolled version of Bill 16-250).

"(2) This amount shall be increased annually, beginning fiscal year 2008, by the cost-of-construction adjustment. For the purposes of this paragraph, the term "cost-of-construction adjustment" for any fiscal year means an amount equal to \$100 million, multiplied by the percentage by which the Construction Cost Index ("CCI") for the preceding fiscal year exceeds the CCI for the fiscal year beginning October 1, 2005. For the purposes of this paragraph, the CCI for any fiscal year is the average of the Cost Construction Index for

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Baltimore published by RS Means, or any successor index, as of the close of the 12-month period ending on December 31 of such fiscal year.”.

Part C.

Sec. 141. Funding the fiscal effect of this title.

(a) The revenue to offset reductions to the General Fund of District of Columbia resulting from the deposit of revenue into the Fund shall be funded from the following sources, in the following order of priority, and shall not be allocated for any other uses or purposes until this title is fully funded:

(1) The unallocated local revenues, from existing revenue sources, in the revised quarterly revenue estimates of the Chief Financial Officer, beginning September 2005, which are estimated by the Chief Financial Officer to be collected in fiscal years 2007, 2008, and 2009; provided, that such allocation shall be subject to the funding the fiscal effect of the following acts:

(A) The New Columbia Community Land Trust 22nd and Channing Streets, N.E. Tax Exemption Emergency Act of 2005, effective December 22, 2005 (D.C. Act 16-243; 53 DCR 266);

(B) The Self-Assessing Taxpayer Fairness in Notice Emergency Act of 2005, effective December 22, 2005 (D.C. Act 16-241; 53 DCR 262);

(C) The Parkside Terrace Economic Development Act of 2006, signed by the Mayor on January 26, 2006 (D.C. Act 16-270; 53 DCR 1062);

(D) The National Community Reinvestment Coalition Real Property Tax Exemption Act of 2005, signed by the Mayor on December 22, 2005 (D.C. Act 16-222);

(E) The February Revised Revenue Allocation Emergency Act of 2006, effective February 27, 2006 (D.C. Act 16-297);

(F) The Triangle Community Garden Equitable Real Property Tax Exemption and Relief Emergency Act of 2006, passed on emergency basis on March 7, 2006 (Enrolled version of Bill 16-645; and

(G) The Far Southeast Community Organization Tax Exemption and Forgiveness for Accrued Taxes Emergency Act of 2006.

(2) Beginning for fiscal year 2007, the unrestricted balance of the General Fund of the District of Columbia, subject to any funds required pursuant to section 3(c)(16) of the Housing Production Trust Fund Act of 1988, effective March 16, 1989 (D.C. Law 7-202; D.C. Official Code § 42-2802(c)(16)), as certified pursuant to the annual audit, to be applied to the fiscal year 2 years following the audited fiscal year.

(3) The increase in deed recordation and transfer taxes as provided under section 161.

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(b) The Mayor shall submit an annual budget which incorporates the allocations of revenues as provided in subsection (a) of this section. The Mayor shall incorporate such allocations in any supplemental budget submission.

Part D.

Sec. 161. Supplemental deed recordation and transfer taxes.

(a) Section 303 of the District of Columbia Deed Recordation Tax Act, approved March 2, 1962 (76 Stat. 12; D.C. Official Code § 42-1103), is amended by adding a new subsection (a-3) to read as follows: Amend
§ 42-1103

“(a-3) Beginning for fiscal year 2008, if the amount of revenue necessary to fund the School Modernization Financing Act of 2006, passed on 2d reading on March 7, 2006 (Enrolled version of Bill 16-250), in accordance with section 141(a)(1) and (2) thereof is not sufficient, the tax imposed on commercial property by subsection (a) of this section shall be increased to rates, as determined annually by the Chief Financial Officer, rounded to the highest increment of 0.1%, sufficient to raise revenue in an amount needed to satisfy the deficiency in the fiscal year, subject to Council approval. After publishing the August revised revenue estimates and prior to September 1 of each year, the Chief Financial Officer shall determine the rates and publish a notice in the District of Columbia Register and on the website of the Office of the Chief Financial Officer stating the amount of the rates. The rates as determined by Chief Financial Officer shall be effective as of October 1 of the following fiscal year.”.

(b) Section 47-903 of the District of Columbia Official Code is amended by adding a new subsection (a-2) to read as follows:

“(a-2) Beginning for fiscal year 2008, if the amount of revenue necessary to fund the School Modernization Financing Act of 2006, passed on 2d reading on March 7, 2006 (Enrolled version of Bill 16-250), in accordance with section 141(a)(1) and (2) thereof is not sufficient, the tax imposed on commercial property by subsection (a) of this section shall be increased to a rate, as determined annually by the Chief Financial Officer, rounded to the highest increment of 0.1%, sufficient to raise revenue in an amount needed to satisfy the deficiency in the fiscal year, subject to Council approval. After publishing the August revised revenue estimates and prior to September 1 of each year, the Chief Financial Officer shall determine the rate and publish a notice in the District of Columbia Register and on the website of the Office of the Chief Financial Officer stating the amount of the rate. The rate as determined by Chief Financial Officer shall be effective as of October 1 of the following fiscal year.”.

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TITLE II. PUBLIC SCHOOL CAPITAL IMPROVEMENT EXPENDITURE
ACCOUNTABILITY.

Part A.

Sec. 201. Establishment of Public School Modernization Advisory Committee.

(a) There is established a Public School Modernization Advisory Committee ("Committee"), whose purpose shall be:

(1) To monitor that capital funds are aligned with the priorities of the Board of Education and those of the District for educational infrastructure;

(2) To monitor that expenditures are aligned with the approved Facilities Master Plan, the District of Columbia Capital Improvement Plan and Budget, and the DCPS maintenance plan; and

(3) To advise the Board of Education as to whether the expenditure of funds is managed in accord with best practices and budgetary limitations.

(b) The Committee shall consist of 11 members. The Mayor, Council, and Chief Financial Officer shall each appoint 2 members to the Committee and the Board of Education shall appoint 5 members, of which one member shall be the parent of a DCPS student and one member shall be a teacher within DCPS.

(c) Members shall:

(1) Be residents of the District of Columbia;

(2) Have expertise in planning, design, construction, asset management, development, financial management, or public finance; and

(3) Be able to describe their stake in public education and public infrastructure.

(d) Members shall serve for a term of 3 years, with no more than one renewal. Of the initial appointments, the Mayor, Council, Chief Financial Officer, and the Board of Education shall each appoint one member to serve for a 2-year term.

(e) Members are required to attend meetings and may be replaced on the Committee for failure to attend meetings.

(f) No member shall serve as an officer, director, partner, employee, consultant, or contractor with an organization that provides services under contract to the Board of Education. Members shall file financial disclosure forms pursuant to section 602 of the District of Columbia Campaign Finance Reform and Conflict of Interest Act, approved August 14, 1974 (88 Stat. 447; D.C. Official Code § 1-1106.02).

(g) The Chairperson of the Committee shall be designated by the President of the Board of Education in consultation with the chairperson of the Committee on Education, Libraries, and Recreation and the Mayor.

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(h) Members shall serve without compensation, but shall receive reimbursement for transportation, parking, or mileage expenses incurred in the performance of official duties, not to exceed \$25 per meeting.

Sec. 202. Public School Modernization Advisory Committee functions and coordination with Superintendent.

(a) The Superintendent shall consult and receive comments from the Committee on the proposed Facilities Master Plan and the Capital Improvement Plan and Budget prior to their adoption.

(b) Within 30 days of receipt of the proposed Facilities Master Plan or the Capital Improvement Plan and Budget, the Committee shall provide the Superintendent with written assessments of the following:

(1) The adequacy of planning and facility information and analysis on which the Facilities Master Plan, the Capital Improvement Plan and Budget, and maintenance plans were based;

(2) Consistency of school facility capacity and grade organization with school system plans, including the Master Education Plan;

(3) Alignment with approved operating and capital budgets;

(4) Quality and quantity of community and local school participation in the planning process;

(5) Overall benefit and level of support provided or created for the project school's educational program;

(6) Community planning issues, including:

(A) Desired or needed school-community uses;

(B) Potential for partnership and collaboration with other city agencies and projects;

(C) Economic development and city planning issues for the affected area surrounding the proposed school capital project;

(D) Parking and transportation;

(E) Participation of local, small, and disadvantaged business enterprises in the procurement process related to the proposed project; and

(F) Other issues directly related to the modernization, construction, or renovation of the project school that are likely to have an impact on the community; and

(7) Projected measurable benchmarks to be achieved by the end of the fiscal year for each capital project.

(c) The Committee shall forward any written assessment provided to the Superintendent to the Board of Education, the Mayor, the Chair of the Council's Committee on Education, Libraries, and Recreation, and the Chief Financial Officer.

(d) The Superintendent shall submit to the Committee on a quarterly basis a status report on all capital improvement projects funded through the capital budget of the District of Columbia Public Schools. The report shall include the following information:

- (1) A summary of ongoing capital improvement projects;
- (2) The approved budget and current and estimated cost of completion of each capital improvement project;
- (3) Encumbered and actual expenditures of each project;
- (4) A detailed list of change orders approved for each capital improvement project;
- (5) A detailed schedule with milestones identified and a comparison of original schedule with current status of work; and
- (6) If any project has a different scope, exceeds its budget, or is proceeding on a substantially modified schedule, an explanation regarding the revised scope of work, a new expected date of completion, a revised anticipated budget for each capital improvement project, and a justification for the change, delay, or increase in cost.

(e)(1) Within 30 days of receipt of the quarterly status report from the Superintendent, the Committee shall submit a copy of the report, any written analysis or concerns about specific items or projects within the report, and specific policy recommendations, to the Mayor, the Chair of the Council, the Chair of the Committee on Education, Libraries, and Recreation, and the President of the Board of Education.

(2) The Superintendent shall respond to written analysis or concerns in writing within 30 days of receipt of comments or queries from the Committee.

(f) The Chief Financial Officer shall provide appropriate staff support to the Committee.

Sec. 203. Annual adoption of Capital Improvement Plan and Budget.

(a) No later than June 1, 2006, and no later than 90 days prior to commencement of each fiscal year thereafter, the Superintendent, with the approval of the Board of Education, shall develop and submit to the Mayor and the Council a detailed Capital Improvement Plan and Budget to implement the approved Facilities Master Plan for the District of Columbia Public Schools. For each proposed capital project, the Capital Improvement Plan and Budget shall include a description of the scope of work to be done, the justification for the work per the Facilities Master Plan, the estimated project cost and schedule, and measurable benchmarks to be achieved by the end of the fiscal year for each project.

(b) No later than 30 days following the end of each fiscal year, the Superintendent shall provide a written report to the Board of Education, the Mayor, the Chairman of the Council, the Chief Financial Officer, and the Public School Modernization Advisory Committee assessing progress on each project relative to the established benchmarks. The Chief Financial Officer shall certify this report. If in any fiscal year, the Chief Financial Officer does not certify that 90% of the established benchmarks have been met, the Chief Financial Officer shall cease the transfer of funds from the Fund to the Board of Education for 60 days or until 90% of the benchmarks have been met, whichever time period is shorter. If 90% of the benchmarks are not met within this 60-day period, and the Board of Education does not establish an independent authority to administer the Fund within 180 days, no further funds shall be transferred from the Fund.

Sec. 204. Compliance with District, local, small and disadvantaged businesses contracting requirements.

(a) The District of Columbia Public Schools shall take all measures as shall be reasonably necessary to assure that all contracts entered into by the District of Columbia Public Schools or any agency or instrumentality of the District of Columbia Public Schools with respect to any project designated in the Facilities Master Plan shall comply with the requirements of the Small, Local, and Disadvantaged Business Development and Assistance Act of 2005, effective October 20, 2005 (D.C. Law 16-33; 52 DCR 7503).

(b) The District of Columbia Public Schools shall take all measures as shall be reasonably necessary to assure that all contracts entered into by the District of Columbia Public Schools or any agency or instrumentality of the District of Columbia Public Schools with respect to each major phase of development and construction of any project designated in the Facilities Master Plan, including contracts for architectural, engineering, and construction services, shall provide that at least 35% of the work in the aggregate under such contracts shall be awarded to local business enterprises, small business enterprises, or disadvantaged business enterprises, as such terms are defined in section 2 of the Small, Local, and Disadvantaged Business Development and Assistance Act of 2005, effective October 20, 2005 (D.C. Law 16-33; 52 DCR 7503); provided, that if the 35% requirement is unattainable, the District of Columbia Public Schools shall report this to the Council for reconsideration.

(c) The District of Columbia Public Schools shall take all measures as shall be reasonably necessary to assure that all contracts entered into by the District of Columbia Public Schools or any agency or instrumentality of the District of Columbia Public Schools with respect to the development and construction of an any project designated in the Facilities Master Plan shall comply with First Source Employment requirements of the First Source Employment Agreement Act of 1984, effective June 29, 1984 (D.C. Law 5-93; D.C. Official Code § 2-219.01 *et seq.*).

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(d)(1) The District of Columbia Public Schools shall take all measures as shall be reasonably necessary to assure that all contracts entered into by the District of Columbia Public Schools or any agency or instrumentality of the District of Columbia Public Schools with respect to the development and construction of any project designated in the Facilities Master Plan shall comply with the requirements of AN ACT To provide for voluntary apprenticeship in the District of Columbia Public Schools of Columbia, approved May 21, 1946 (60 Stat. 204; D.C. Official Code § 32-1401 *et seq.*).

(2)(A) 50% of all apprenticeship hours performed pursuant to apprenticeship programs related to the construction and operation of any project designated in the Facilities Master Plan shall be performed by District of Columbia residents.

(B) Any prime contractor or subcontractor that fails to make a good-faith effort to comply with the requirements of this paragraph shall be subject to a monetary fine in the amount of 5% of the direct or indirect labor costs of the contract. Fines shall be imposed by the Contracting Officer and remitted to the Department of Employment Services to be applied to job training programs, subject to appropriations by Congress.

Sec. 205. Audit of capital improvement projects.

No later than June 1, 2007, and each year thereafter until the completion of all projects designated in the Facilities Master Plan, the District of Columbia Auditor shall prepare an annual report to the public on the use of the capital funds by the District of Columbia Public Schools during the preceding fiscal year. The report shall include a school- and project-specific audit of all expenditures for school facility capital improvements, maintenance, repairs, and operating costs and an assessment of whether the District has met the process, quality, schedule, and cost objectives of the Facilities Master Plan and Capital Improvement Plan and Budget.

Part B.

Sec. 221. Section 1104 of the School Based Budgeting and Accountability Act of 1998, effective March 26, 1999 (D.C. Law 12-175; D.C. Official Code § 38-2803), is amended as follows: Amend
§ 38-2803

(a) Designate the existing text as subsection (a).

(b) The newly designated subsection (a) is amended by striking the phrase "Long Range Master Facilities Plan which shall include annual updates to the facilities plan, as well as" and inserting the phrase "multiyear Facilities Master Plan, which shall include" in its place.

(c) New subsections (b), (c), and (d) are added to read as follows:

"(b) The Facilities Master Plan shall also include detailed and updated analysis and data regarding:

“(1) The facilities condition assessment for each school building and facility under the control and jurisdiction of the Board of Education;

“(2) The capacity of existing schools, current level of utilization, and recommendations for the utilization or reduction of excess space, including specific recommendations on consolidation, closure, and co-location, as appropriate;

“(3) Historical and projected enrollment data;

“(4) Current and projected demographic information for the surrounding neighborhood;

“(5) Other neighborhood issues, in coordination with the District of Columbia Office of Planning;

“(6) Facilities needs and requirements as they relate directly to the Master Education Plan; and

“(7) A detailed facility portfolio analysis that will inform any decisions related to alternative financing options, including public/private development partnerships and co-location opportunities.

“(c) In developing the Facilities Master Plan, the Superintendent and Board of Education shall consult with the Mayor, the Council, the Public Charter School Board, representatives of public charter schools, and the Public School Modernization Advisory Committee, and shall consider the facilities needs of all public school students.

“(d) The Board of Education shall review and update the Facilities Master Plan every 3 years.”.

Sec. 222. The District of Columbia School Reform Act of 1995, approved April 26, 1996 (110 Stat. 1321; D.C. Official Code § 38-1800.01 *et seq.*), is amended as follows:

(a) Section 2551 (D.C. Official Code § 38-1805.51) is repealed.

(b) Section 2552 (D.C. Official Code § 38-1805.52) is amended to read as follows:

“Sec. 2552. Facilities Master Plan.

“In developing the Facilities Master Plan pursuant to section 1104 of the School Based Budgeting and Accountability Act of 1998, effective March 26, 1999 (D.C. Law 12-175; D.C. Official Code § 38-2803), the Superintendent and Board of Education shall consult with the Mayor, the Council, the Public Charter School Board, representatives of public charter schools, and the Public School Modernization Advisory Committee, and shall consider the facilities needs of all public school students.”.

Repeal
§ 38-1805.51
Amend
§ 38-1805.52

TITLE III. MAINTAINING EXISTING CAPITAL BUDGET FUNDING.

Sec. 301. Chapter 3 of Title 47 of the District of Columbia Official Code is amended as follows:

(a) The table of contents is amended by adding the section designation “§ 47-305.02. Minimum funding for District of Columbia Public School’s capital budgets to be included in budget and financial plan.”.

(b) A new section 47-305.02 is added to read as follows:

“§ 47-305.02. Minimum funding for District of Columbia Public School’s capital budgets to be included in budget and financial plan.

“The Mayor’s submission of proposed budgets to the Council beginning with the budget for fiscal year 2007 shall provide for minimum funding in the following amounts:

“(1) \$98.299 million for the District of Columbia Public School’s fiscal year 2007 capital budget;

“(2) \$98.3 million for the District of Columbia Public School’s fiscal year 2008 capital budget;

“(3) \$98.3 million for the District of Columbia Public School’s fiscal year 2009 capital budget,

“(4) \$98.832 million for the District of Columbia Public School’s fiscal year 2010 capital budget;

“(5) \$98.8 million for the District of Columbia Public School’s fiscal year 2011 capital budget; and

“(6)(A) For the District of Columbia Public School’s capital budgets for fiscal year 2012 and thereafter, the amount of \$98.299 million, increased annually by the cost-of-construction adjustment.

“(B) For the purposes of this paragraph, the term “cost-of-construction adjustment” for any fiscal year means an amount equal to \$98.299 million, multiplied by the percentage by which the Construction Cost Index (“CCI”) for the preceding fiscal year exceeds the CCI for the fiscal year beginning October 1, 2005. For the purposes of this paragraph, the CCI for any fiscal year is the average of the Cost Construction Index for Baltimore published by RS Means, or any successor index, as of the close of the 12-month period ending on September 30 of such fiscal year.

“(7) The first portion of the sales tax revenue collected or used, pursuant to this section, during fiscal year 2007, fiscal year 2008, and fiscal year 2009, shall be designated for full modernization of a vocational school located in the District of Columbia. Initial planning shall commence in fiscal year 2007 and completion of the full modernization project shall be accomplished by the close of fiscal year 2009.”.

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TITLE IV. SUNSET; FISCAL IMPACT; EFFECTIVE DATE.

Sec. 401. Sunset.

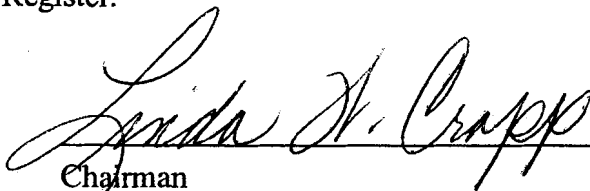
If, pursuant to section 141(a)(1), there are unallocated local revenues, from existing revenue sources, sufficient to fund Title I, then section 141(a)(2) and (3), and section 161 shall sunset.

Sec. 402. Fiscal impact statement.

The Council adopts the March 6, 2006 fiscal impact statement of the Chief Financial Officer as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

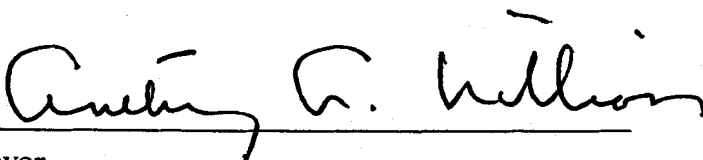
Sec. 403. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.



Chairman

Council of the District of Columbia



Mayor

District of Columbia

APPROVED

March 30, 2006